

**COMMISSION MEETING  
THURSDAY, JANUARY 9, 2003  
MINUTES**

**Vice Chair McLaughlin** called the meeting to order at 1:00 p.m., at the WestCoast Hotel in Olympia. She welcomed the attendees and introduced members and staff present:

**MEMBERS PRESENT:**                      **COMMISSIONER LIZ McLAUGHLIN, Vice Chair;**  
   **COMMISSIONER CURTIS LUDWIG;**  
   **COMMISSIONER JANICE NIEMI;**  
   **COMMISSIONER ALAN PARKER;**  
   **SENATOR SHIRLEY WINSLEY;**

**OTHERS PRESENT:**                      **RICK DAY, Executive Director;**  
   **ED FLEISHER, Special Assistant, Policy and Government Affairs;**  
   **DERRY FRIES, Assistant Director, Licensing Operations;**  
   **CALLY CASS-HEALY, Assistant Director, Field Operations;**  
   **AMY PATJENS, Administrator, Communications and Legal;**  
   **JERRY ACKERMAN, Assistant Attorney General;**  
   **GAIL GRATE, Administrative Assistant;**  
   **SHIRLEY CORBETT, Executive Assistant**

**Employee Service Recognition Awards:** Director Day and Vice-Chair McLaughlin presented Dorris Rocha with a 30-year service award. Ms. Rocha started her state career in 1973 as a license technician, and currently works in Licensing Services.

**1. REVIEW OF AGENDA AND DIRECTOR'S REPORT:**

**Director Day** extended a Happy New Year to all and briefly reviewed Thursday's and Friday's agenda. He identified inserts added to the agenda packet after distribution.

Administrative Issues reports:

**Director Day** provided a brief overview of 2002, A Year in Review. He thought it was important to recognize the work and effort of the Commission over the past year, and to reflect on the past before moving on into the future:

- Implemented budget reductions and a reorganization which reduced the agency's bottom line while maintaining the quality of direct services;
- Developed and approved a budget for the '03-05 biennium at a reduced level in spite of an increase in gambling activity. The State was in a fiscal crisis, which also affected private industry across the state. Even though the demand for services increased, the budget approved by the Commission was at a reduced level than the budget approved in the previous biennium;
- A 2002 audit of the agency was completed and the State Auditor found no exceptions.
- The Northwest Regional Office was relocated from Lynnwood to Everett;
- Licensing Services issued 17,836 licenses through November of 2002, which compares to 15,871 in 2001;
- The Information Technology Division increased the speed and capacity of computer communications for the regional offices. Microwave communications have also been installed between headquarter offices and the headquarters of the Commission's special investigation unit.
- Negotiated and subsequent approval of the Colville Confederated Tribes and Shoalwater Bay Compacts which ended disagreements spanning more than a decade. Significant compact amendments were approved with the Puyallup, Tulalip, Muckleshoot, and Quinalt Tribes. The Commission worked with the Yakama Tribe to upgrade the regulatory program, which included implementation of a machine expansion. TGU staff provided support for a

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second facility for the Puyallup Tribe, the Port Gamble Casino opening, and the reopening of the Lummi facility.

- Completed the Mitola bookmaking case and as a result received \$11,000 in forfeited assets from the FBI;
- Implemented the Notice of Violation and Settlement Program and issued 58 notices under the program. Only one of those ended up in a hearing;
- Achieved favorable results from the agency's 2002 Employees Survey, improving scores taken in 2000. When compared to other state agencies, the average was higher than other participating agencies;
- Implemented an agency-wide performance planning and coaching system;
- Created action teams involving 74 employees to gain broader involvement in primary policy issues within the agency;
- Implemented a plan developed by a team within the agency for a new recruitment and retention salary plan for special agents;
- Created a Rules Committee to coordinate the development process for new rules;
- Received 230 legal cases in 2002, doubling the 1999 caseload of 98, and collected approximately \$695,000 in penalties through November 2002. This underscores the agency's continuing effort, and especially our Legal Department's effort to do their best to make sure that when there are violations, that the responsibility is properly placed;
- Streamlined the process for licensing individuals by modifying the Mandatory Card Room Training Program, which eliminates a significant delay factor for people, particularly dealers, to be able to begin work in the industry;
- Participated in a work group with Liquor, Horse Racing, and Lottery, to study possible overlap duties for the respective commissions and boards. Preliminary findings regarding shared licensees, seems to be pointing out that there is a very small percentage actually shared between agencies. (Representative Cheryl Pflug joined the meeting)

**Director Day** emphasized these were only some of the more extraordinary accomplishments, however, there is a lot of work that goes on every day. The list also assists in keeping in touch with some of the things that were approved or initiated in 2002 that are moving forward in the agency.

Proposed State Budget (Department of Gaming) - **Director Day** noted the agenda packet contained a series of documents including three pages from the Governor's proposed Executive Budget, draft correspondence, and a summary memo to staff to alert them about what had been reflected in the Governor's budget. The Executive Budget proposes to eliminate the Horse Racing and Gambling Commissions, and to replace them with an Executive Branch called the Department of Gaming. At this point, the proposals would cut 14 FTEs from the Commission approved budget and another 1.5 FTEs from Horse Racing, and transfer \$1.5 million from the Gambling Commission's fund balance to the General Fund this session. It is anticipated that legislation will be proposed to implement this legislation, however, it is unknown if it will be an individual bill, or whether it will be wrapped in an omnibus budget reconciliation bill. The proposal also calls for the fund to be nonappropriated. Director Day cautioned that until the Commission obtains a copy of the actual legislation, it is hard to know the full impacts.

**Commissioner McLaughlin** affirmed there are rumors that the Department of Gaming would have a larger board representing two Commissions. **Commissioner Parker** noted the director's material included a draft of a letter that was prepared for Chair Orr's signature, as an opportunity for the commissioners to speak to this proposal. Commissioner Parker believed it was important for the Commission to make a statement on this process, and he emphasized that the Legislature and the industry need to know where the Commission stands on the Executive Budget proposal.

**Commissioner Parker** made a motion seconded by **Commissioner Ludwig** to authorize Chair Orr to send a letter on behalf of the Commission. Commissioner Parker explained his intent was to put this issue on the table for discussion.

**Commissioner McLaughlin** advised that Item 4 in the letter give her trouble even though she agreed the Commission should make a statement if they believe a Commission is important for the citizens of the state of Washington. She did not feel comfortable discussing the financial impact without being able to address specific legislation. She also felt the money issues seemed to have nothing to do with what is discussed in the prior statements of the letter. **Commissioner Ludwig** didn't believe that applied directly to the motion. He felt the Commission could consider the motion and leave the fine-tuning up to individual members of the Commission.

**Commissioner Parker** agreed the issue of funding was a little confusing because in the first instance, they are not talking about money that goes into the State Treasury. The reduction in the level of expenditure of this Commission proposed as part of this budget proposal is not saving taxpayer dollars; it is simply reducing the level of expenditure for the agency. He believed the proposal had to be read as saying the funds that the Commission has been generating through fees would then go into the treasury, essentially as tax revenue. Then, out of that treasury, the operating budget of the Commission would be authorized by the Legislature. Under that assumption, the end result would be to redirect the funding from licensing fees into the treasury, and authorizing an operating budget that is less than it was before. If those assumptions are made, then there may be some limited savings that are ultimately achieved. The problem he had with the entire proposal is that the assumptions haven't been examined. The assumption that it is better for the public to change this system by putting the money (from a self-funded agency), into the treasury, is a fundamental change in the whole scheme of regulation, which needs to be examined. Commissioner Parker doubted the ability to achieve operating savings by reducing the operating budget of the Commission, because this Commission operates on a very cost effective basis. **Commissioner Niemi** agreed with Commissioner Parker to a certain extent. She affirmed the Executive Budget didn't really spell out the purpose, or what savings might result. She agreed there wasn't anything wrong with guessing there would be savings, and the one paragraph in the proposal indicated they don't think there are any.

**Representative Pflug** noted that while this is the Commission's letter, the point is that there really is not a proposal. The letter would be opposing a proposal that the Commission hasn't seen yet. She stated that the Legislature is a long way from having anything adopted. Representative Pflug suggested taking some time in order to see actual language. One option might be to send a letter not taking a position, but expressing the criteria the Commission might be concerned about protecting. Another option would be to hold off altogether until there is a proposal, and respond directly to the proposal, making the letter a little more persuasive. **Commissioner McLaughlin** agreed, saying she had spoken with others who wondered if this was the appropriate time to send a letter. **Commissioner Parker** thought Representative Pflug made an excellent point. He acknowledged that it was difficult to speak to an undefined proposal. However, he believed that if a piece of correspondence came under the names of the Commissioners, expressing their concerns, in response to what is already before the Commission, then it would help inform people. The Commission would not be taking a position opposed to this proposal; they would simply express their concerns. Commissioner Parker emphasized that he thought it would be helpful to have a statement on the table, to inform those who look at and consider this issue.

**Commissioner McLaughlin** called for public comments or opinions on whether there should be a Department of Gaming that includes both the Horse Racing and the Gambling Commissions, and possibly doing away with both commissions.

**Gary Murray**, Recreational Gaming Association, reported that the RGA, at their board meeting, discussed many of the concerns that had been voiced by the commissioners. He advised that they don't have anything to respond to directly, and the RGA agreed with Representative Pflug's comments.

**Kris Kealy**, Licensee, asked if this wasn't simply another attempt at getting the same fees they got out of the budget last year for next year, and succeeding years.

**Frank Miller**, Attorney (and former Commission Director), said he would be blunt, and called this a stupid idea. He noted that similar proposals to combine the agencies have been proposed in the past. He affirmed the Commission is a very efficient, well known, well respected regulatory and law enforcement agency in gaming. There aren't many agencies throughout the country that are as well developed as this one. He agreed it would be one thing if this saved the state money, but it does not because the Commission is totally self-sufficient. He also hoped there would be some objection from the standpoint of regulation; there is no savings to the state, and the Commission protects the citizens of the state. With regard to Horse Racing, he noted it is small, and could be absorbed into this agency. The veterinarian side could be moved to the Department of Agriculture and the regulatory side could be a division within the Gambling Commission. Mr. Miller believed putting this at the Governor's level would be a mistake because there wouldn't be a buffer between the Governor and the Commission. He stated this is a quasi-judicial body, there are a lot of problems associated with repealing this agency, and he urged the Commissioners to oppose such a proposal.

**Bob Tull**, Attorney (and former Commissioner), advised that he had looked at the Gambling Act and the laws under which the Commission functions. It occurred to him that there must have been a good reason for that statute to require that removal of a commissioner required a very elaborate procedure. It appeared to him that procedure was intended to

isolate and insulate regulatory decision making from the primarily political arena, which is not to denigrate the political arena, but the idea that gambling regulatory decisions ought to be based on information and facts to carry out legislative directives with a bit of an arms-length distance. When the Legislature starts talking about tampering with that, then they have to say that it will no longer be a good idea to require that the Supreme Court be part of the process in removing a Commissioner. Why bother if it is just another department? He hoped that at the appropriate time the Commission would make their views known. (Senator Shirley Winsley joined the meeting)

**Bob Brennan**, Licensee, thought that the Commission should suggest that the Gambling Commission absorb the Horse Racing Commission. **Commissioner McLaughlin** pointed out that the budget message indicated the two commissions were to become the Department of Gaming, reportable to the Governor. Mr. Brennan countered that he was asking the Commission to think big and take the lead by suggesting to the Governor that the Gambling Commission take over the Horse Racing Commission because they are efficient and well run. **Commissioner Ludwig** asked if Mr. Brennan would agree with Mr. Tull that as a State Department of Gaming, it would put things back into the political arena. **Director Day** clarified that the Governor's Executive Budget clearly eliminates the Gambling Commission and the Horse Racing Commission and reflects the Department of Gaming. The budgets are zeroed out and there is one combined budget under the Department of Gaming. What hasn't been seen yet is the detail behind what the proposed structure might be, and how those changes would be implemented.

**Vice Chair McLaughlin** brought attention to the motion on the floor. **Commissioner Parker** amended his original motion to conform to Representative Pflug's proposal. He restated the motion that the Commission send a letter without taking a position opposed to the vague proposal, and simply expresses the concerns the Commissioners would have if a Department of Gaming was created, and/or by doing away with the Gambling Commission. **Commissioner Ludwig** concurred, and added that he would like to incorporate Mr. Tull's and Mr. Miller's comments. **Commissioner Niemi** commented that if the motion is to send the letter with some reference to the history of the Commission, and the history of the legislation, she thought that would be a good addition.

**Representative Pflug** suggested a combined approach—to voice their concerns about moving from a commission to a department. She affirmed addressing the history about how the Commission got to where it is, and why they might want to stay there; and then lay out other concerns regarding a combined commission or department. **Senator Winsley** suggested they not hit an ant with a sledgehammer. She believed this would be a little bit of overkill, and believed it could be worked out.

**Director Day** clarified his understanding that the draft letter reflect the concerns of the Commission, retaining the historical reason for its creation in the first place, and taking out the portion that directly places the Commission in opposition until there is actual legislation. As the process moves forward, the Commission may then take another look and decide if follow-up correspondence would be prudent. **Vice Chair McLaughlin** called for a response from the maker of the motion. **Commissioner Parker** affirmed. Vice Chair McLaughlin called for any other comments.

**Commissioner Parker** said there was some discussion about taking a position on the proposal to consolidate the Horse Racing under the Commission, but he did not think they should address that. **Commissioner McLaughlin** agreed. **Director Day** suggested that if the motion passes, the staff could redraft the letter for Commission review. **Jerry Ackerman**, Assistant Attorney General, suggested that procedurally, the Commission needed to bring something back tomorrow that could be voted on, or have a redraft presented at the February Commission meeting for a vote at that time. The third option would be to simply authorize the Chairman to exercise his discretion and to write a letter to the Governor on the commissioners' behalf. Mr. Ackerman advised there wasn't another way, short of a special meeting, to do this in between the January and the February meetings.

**Commissioner Ludwig** replied that he thought the general nature of the motion authorized the Chairman to draft a letter based on what was stated at this Commission meeting, and his understanding was that he would consult with Commissioner Parker, Commissioner Niemi, and Commissioner McLaughlin. **Mr. Ackerman** said he could do that as long as those conversations took place one at a time to avoid a quorum of the Commission being present. He cautioned that one of the problems they may encounter by simply authorizing the Chairman to write a letter on the commissioners' behalf is that he was not present at today's meeting. Mr. Ackerman thought that might make it difficult for the Chairman to synthesize the various views that were expressed, and to write a letter that satisfied the will of the majority of the Commission.

**Mr. Ackerman** believed the more viable option would be to review a re-draft that would be ready for approval tomorrow, or, to have a draft prepared for the February meeting.

**Commissioner Niemi** made a motion seconded by **Commissioner Ludwig** to table the item and continue discussion at tomorrow's Commission meeting, when a redraft of the correspondence would be available for review. *Vote taken; the motion passed unanimously.*

**Director Day** resumed the Director's Report and reported that Legislative Updates would be supplied to the Commissioners each meeting as proposals come up. Senate Bill 5019 has been pre-filed. This bill is the first proposal combining Horse Racing and Gambling into one Commission. A summary by Ed Fleisher was included.

Adjusted Cash Flow Variance Review. **Director Day** noted that quite a bit of discussion was facilitated at the November 2002 meeting. He advised that he reviewed the minutes from 2000 and 2001, and looked at the variance provisions to develop possible options. As part of the process, he asked the Rules Team to review the current provisions. Right now, the process requires the nonprofit or the charity to return a minimum adjusted cash flow to its purpose. If they fail to meet the minimum after two consecutive quarters, they are to submit a plan for immediate changes that would bring them into compliance. If that doesn't work after four consecutive quarters, staff then schedules a revocation action. At the time they are scheduled for a revocation action, they may request a variance before the Commission to exempt them, in effect, from proceeding with the revocation action. They are allowed to request a variance in two areas: if they are within 10 percent of their requirements, or if they have a long-term, legally binding obligation. As the Commission worked with the variances, it was discovered they were problematic. The staff looked at previous minutes relating to that particular rule, and Director Day rephrased the objectives as outlined by former Director Bishop. The objectives of the new rules were to focus on dollars available for charitable nonprofit purposes, rather than other factors, to allow flexibility for organizations to operate Bingo without unnecessary regulatory interference, to discourage predatory practices, and that sanctions should be tough but fair. There was one consistent theme -- that the proposed rates would be the lowest return tolerated, rather than the minimum expected. There were also various comments from former Commissioner Forrest about the anticipated effect, and he emphasized that the ability to conduct Bingo as a charity was a privilege. With that as a backdrop, Director Day reported that the two options staff recommends for consideration are: to eliminate the variance provisions in their entirety, and that the process would go to the revocation hearing. Ultimately, if there were a dispute after the Administrative Law Judge (ALJ) issued an order under the revocation, the Commission would be in a position to consider the appeal anyway. This option would eliminate the consternation or procedural concerns about the variances. The second option would be eliminating the requirements, making it a general variance. It would be a one-time, twelve-month variance that would allow the nonprofit or charity to go before the Commission for consideration of the validity of their efforts to come into compliance. If that was unsuccessful, then staff could continue with the revocation action.

**Director Day** inquired whether the Commission wished for staff to move forward with any of the recommendations proposed. However, he noted that if the Commission should ask the staff to go back to the drawing board, staff did not believe it would be prudent to revisit the adjusted cash flow requirements, or to establish another task force. Director Day affirmed the Commission has determinedly pursued a perfect solution there, and it has always escaped being able to move forward. Staff's recommendation is to hold the course. The process is now almost two years old.

**Vice Chair McLaughlin** pointed out that in an instance where the Commission denies a licensee a variance, the licensee could proceed through the ALJ process, and if it is again denied, the Commission might then be required to hear an appeal on something they already denied, which didn't seem to make much sense. **Mr. Ackerman** responded that was also his understanding of the process that would have to be followed; whether it makes sense or not, indicates it is a regulation that obviously needs some work if the Commission doesn't want that process to occur.

**Commissioner Ludwig** asked the director which of the two options he recommended. **Director Day** responded that the elimination of the variance process is the cleanest and most direct. That foundation is with the assumption that the minimum return is something absolutely required by the charity and nonprofit Bingo. The Commission has taken a hands-off approach and stood back and said we need to have standards, there needs to be positive cash flow to the works of the charity or nonprofit. That still allows the Commission to be involved in the end, and it would support the statute.

**Commissioner Ludwig** asked the director how long it would take to eliminate the variance rule. **Director Day** said it would probably take from three to six months, assuming the study group process isn't utilized, which he believed the

Commission has done traditionally. Commissioner Ludwig pointed out there are two matters before the Commission today—motions to reconsider the rulings which were different in two previous cases. He asked if a proposal today would affect the reconsideration petitions. Director Day responded in the negative, and asked Mr. Ackerman for confirmation. **Mr. Ackerman** said it would be difficult to know without first seeing the final rule that would replace the existing rule. In a general way, he suggested that it probably would not affect the rulings they have already issued. Commissioner Ludwig noted the Commission has granted a variance for one petition, which may be a simpler case than the petition where the petitioner was denied based on a lack of a plan to get in compliance. **Commissioner McLaughlin** clarified that if a motion for a rule change was approved today, the Commission wouldn't have a final vote for three months. **Director Day** affirmed it would take at least that long.

**Commissioner Ludwig** asked for a clarification regarding the petition where the licensee was not granted the variance, and that reconsideration is what is before the Commission; could the Commission make a motion to hold it in abeyance until final action would be taken on the potential rule change. **Mr. Ackerman** believed not—what is before the Commission tomorrow is a Motion for Reconsideration. There is a statutory time limit to make a decision on the Motion for Reconsideration under the Administrative Procedures Act. Commissioner Ludwig responded that he would hate to see a licensee or petitioner get caught in a Catch 22 situation—if the Commission proceeded, it might jeopardize what would otherwise be a favorable attitude if the Director's recommendations were subsequently adopted. Mr. Ackerman responded that Director Day and staff have obviously heard the comments, and the WAC that staff presents for consideration could certainly be crafted to attempt to deal with the issue the commissioners have raised.

**Commissioner Niemi** made a motion seconded by **Commissioner Ludwig** to remove Subsection 5 and not allow variances.

**Commissioner Niemi** referred to the minutes of the last meeting, which contained a thorough discussion of the issue. She reviewed what she thought were the important highlights of the issues, noting that Ms. Froud did an excellent job of educating the Commission about the whole issue under the Request for a Variance. Ms. Froud reported this has been a concern of the Commission for at least 20 years. In 1983, Commission staff prepared a report for the Governor and the Legislature, which expressed concern about the increased size of nonprofit Bingo game gross receipts in relation to the decline of funds returned back to the organization's stated purpose. Commissioner Niemi noted that has a lot to do with what the Commission is going through right now. She continued with the review of the previous minutes summarizing that in 1990, Commission staff found that many nonprofit organizations were having difficulty meeting their net return requirements, and in response to that, the Commission reduced the net return requirements and allowed for variances. In 1995, after recommendations by another net return task force, the Commission made further reductions—and in 1998, another task force comprised of staff and licensees again adjusted the net return requirement created as a result of the continuing decline in Bingo activities. Commissioner Niemi explained that is why she is recommending the Commission no longer allow variances. Over and above this recommendation, she proposed that staff provide the Commission with information on the gross receipts of the nonprofit Bingo, pull-tab, and other nonprofit organizations—how much their gross is, and how much is eventually returned to their charitable organization. She asked for the charitable organizations to be broken down into legitimate 501(c)(3)s, where the money can be given to an organization that suits the 501(c)(3) recommendation—the Federal taxes—and explain exactly what the money goes to. Commissioner Niemi asked if any of the charitable organizations that are supported have any kind of control over the people who receive the money—are they for people who are of lesser incomes, or how is that done. She asked if we should be having nonprofit organizations involved in this—any kind of for-profit gambling organization could always contribute some of their results and obtain a federal exemption for whatever they give away. Commissioner Niemi believed it would also be good if the Commission could see exactly what was going on with the relatively minimal charitable deductions. **Commissioner McLaughlin** pointed out that would take a change of state law. Commissioner Niemi said she recognized that, however, she wanted a recommendation from the staff on what kind of change that would require. Commissioner McLaughlin responded that it would require that someone other than nonprofits could play Bingo; right now they are the only ones besides the Indian tribes that can operate Bingo in this state. Commissioner Niemi affirmed, and cited a need for information and a recommendation as to what could be done in that respect to have for-profit Bingo.

**Commissioner Ludwig** believed this request was a separate issue from the motion made and seconded. Commissioner Niemi confirmed the motion had been made to not allow any variances. Commissioner Ludwig said he seconded that motion, and did so with the understanding that the Commission could change its mind before they take a final vote.

There was a brief discussion between Commissioners Ludwig, Niemi and McLaughlin on how to amend the motion on the floor. After some deliberation it was decided that rather than amend the motion, they would make two separate motions.

**Vice Chair McLaughlin** restated the motion on the floor to do away with the variances for the adjusted cash flow rule, and called for public comments.

**Don Kaufman**, General Managing Director, Big Brothers/Big Sisters, Spokane, said it bothered him that the Commission was considering taking away the ability for the Commission to hear individual situations and to make a judgment on those situations. He believed this motion jumps the gun because staff has not gone through the rules process. He urged the commissioners not to vote on this issue today, to let staff come forward with their recommendation first, then allow discussion in an informal setting. He explained his organization is located in Spokane. He stated his facility is surrounded by tribal gaming, and there is a new facility not far from his hall. That facility is opening up 30,000 square feet more of space in the next month and a half, and they're indicating they're going to operate Bingo from a space where they've never run Bingo previously. The Big Brothers/Big Sisters crowd attendance is down about 60 to 65 percent from 11 years ago. His organization is barely surviving in this environment. They are now also faced with competing with a tribe in Idaho that draws a lot of his customers because they have entertainment and because they opt for high-stakes Bingo. Mr. Kaufman said Bingo is a lost leader process for the tribes because they can pay out 105-110 percent because the people are putting their money in the machines while they're spending their time at that facility. He noted his building, three years ago, was worth about \$2.9 million. Due to the stock market decline, the Spokane economy is in trouble, which has subsequently reduced the value of his building from \$2.9 to \$2.5 million. Additionally, the Monroe Street Bridge was recently closed, and his building is located on Monroe Street, four blocks north of the bridge. The organization is facing two years of a bridge closure; the building value has been lowered a half-million less than three years ago, and the Commission is now placing him in a position where if the organization couldn't make a dollar, but yet, continues to pay the loan and principal, which is to the benefit of the organization and provides them an opportunity to pay down on an asset, versus having to sell the building at a half-million-dollar loss. Alternately, if the organization could hold on for two more years, they would be in a better position as the bridge reopens, and hopefully as the economy improves, to sell that property. Which was why he thought the Commission needed a variance process to take individual issues into consideration. He urged the Commission not to vote on their proposal today; to let staff go through their process and make a recommendation.

**Vice Chair McLaughlin** pointed out that there were two possible recommendations, and clarified that Mr. Kaufman would have the right to go to the ALJ and then come back to the Commission if he did not agree with the ALJ's ruling. **Mr. Kaufman** responded that he would be shut down for two to three months. Commissioner McLaughlin assured him he would be able to stay open while the process was taking place. **Director Day** affirmed that when the licensee is scheduled for revocation, the agency does not move to close the premise down until there is a final decision. The only time there is an immediate closure, is when there are two consecutive negative quarters.

**Mr. Ackerman** suggested the proper motion would be to direct staff to draft a proposed regulation which would repeal the variance process. He said the Commission could not vote to repeal today because Notice has not been given of that action. The Commission may vote on a WAC presented at the next meeting, which would start the rule promulgation process. In this case it is a negative promulgation—repealing a rule. The Commission would then go through the normal rule development series of hearings, which takes about three months. During that process they could hear from anyone that wishes to propose an amendment to the rule or make a recommendation not to adopt the rule.

**Commissioner Niemi** affirmed that was what she thought she was doing and apologized for not being more specific in her motion. Mr. Ackerman said the Commission would have the normal series of hearings, but they also needed to be clear in response to one of the questions that was asked—if the Commission repeals the variance process as it currently stands, they may well be constrained by the statute and the WACs on the books from equitable case-by-case handling of individual cases. If they say that if an organization does not meet the adjusted cash flow requirements, they will lose their license, then, in fact, if this Commission follows the statute and the those WACs, people would lose their license and would not be able to ask for what amounts to equitable relief from the Commission, which is to some degree what is happening under the variance process. **Commissioner Parker** suggested that the documents staff prepares for the Commission ought to be a straightforward, and asked if it could be drafted by tomorrow. Mr. Ackerman responded that because the Commission must give Notice, and because this hasn't been on the agenda for the public, the earliest

possible date for action would be at the February Commission meeting. **Vice Chair McLaughlin** called for a vote directing staff to draft a rule change on the adjusted cash flow rule. *Vote taken; the motion carried unanimously.*

**Vice Chair McLaughlin** stated that next month, staff would present a proposed rule for discussion over the next two months, offering several opportunities for licensees and the public to address the issue. **Director Day** affirmed staff would have a proposal ready for an informal discussion before the next Commission meeting. He noted that an important thing to consider about the adjusted cash flow process is that there were over 11 rules that were repealed when the Commission enacted the new rules. Essentially, the Commission dropped back and provided a lot of discretion for operators to make their own decisions in order to meet the targets that were set.

**Goldie's/ Hackworth Theft, Shoreline** - **Director Day** addressed a \$200,000 theft case from a Washington business owner where Commission agents did an excellent investigation over a period of 10 months. It resulted in charges being filed.

**Director Day** noted the Commission's Administrative Case Report provides a list of the various cases pending before the agency. He noted three. In an adjusted cash flow case, the Affifi Shriners, will have the affect of changing some of the agency's procedures. Traditionally, if a licensee faced a disciplinary action, a hearing/action was scheduled, and if the licensee chose to let their license expire, they would strike the hearing and dismiss the action. As long as the licensee didn't renew, staff wouldn't continue with the action. An Appellate Court case was pointed out by an ALJ that says once the agency starts an action, it has to finish the action regardless of the status of the license. As a result of that, there may be procedural changes because of the need to determine a final disposition. **Director Day** noted the Game Tech International case was resolved, and he also noted the Commission conducted a telephonic hearing to reconsider the Beverly Milligan case.

**Director Day** addressed the Seizure Case Update and spoke to the dice sliding case where agents seized a video gaming machine. Seized funds were forfeited and will be divided between the Yakama Tribe and the Muckleshoot Tribe.

Lastly, **Director Day** addressed the Tribal Update and noted the Colville Compact has been signed and published, and has now completed the federal process. Normally these cases take 45-days.

**Vice Chair McLaughlin** reported that she might have given out some misinformation at the study group with regard to the variances the Commission heard at the last meeting. A comment was offered on the fact that no one from the audience got to speak to the issue or have a chance to voice their opinion. She had explained to the objector that may have been a simple human error. However, since that time, it was noted that the Commission was operating in a judicial role, which doesn't allow for outside comments. **Mr. Ackerman** affirmed the commissioner's role at that point is quasi judicial and the case wasn't a matter for debate among the public—the commissioners are acting as judges and making a determination as to whether or not to grant the continuance of a license that would otherwise be subject to charges leading to revocation. Therefore, it is not a matter for the public to debate.

## **2. New Licenses, Changes, and Tribal Certifications:**

**Commissioner Niemi** made a motion seconded by **Commissioner Parker** to approve the new licenses, changes, and tribal certifications listed on pages 1 through 35 of the agenda packet under License Approvals. *Vote taken; the motion carried with three aye votes.* **Commissioner Ludwig** advised that he did not vote because he did not have an opportunity to examine the documentation sufficiently enough to make a determination.

## **3. Manufacturer Reviews:**

**Derry Fries**, Assistant Director, Licensing Operations reported that he would be presenting nine pre-licensing reports: five manufacturer reports and four house-banked card room reports. Because of the number of pre-licensing reports, Mr. Fries suggested consolidating the first three: 1) Bingo Press and Specially Limited d/b/a Bazaar and Novelty, 2) Video King Gaming Systems, and, 3) Western Bingo Supplies, Inc., the last two of which are wholly owned by Bingo King Entertainment Inc., and are subsidiary corporations. **Vice Chair McLaughlin** concurred.

The first pre-licensing report was a consolidation of **Bingo Press and Specialty Ltd., d/b/a Bazaar and Novelty** which



manufactures bingo paper, pull-tabs, and other bingo supplies; **Video King Gaming Systems, Inc.**, which manufactures electronic bingo equipment; and **Western Bingo Supplies, Inc.**, which manufactures pull-tabs and bingo paper. The corporate offices of these entities are located in St. Catharines, Ontario, Canada and are wholly owned by **Bingo King Entertainment, Inc.** They have been licensed by the WSGC since 1988. Mr. Fries provided the stock and shareholder information as contained in the reports.

All corporate and financial records are collectively maintained in the corporate office located at St. Catharines, Ontario, Canada. Special agents from the Financial Investigation Unit conducted the pre-licensing investigations which included an onsite visit to the Bingo King Entertainment corporate office in Ontario. In addition, the agents toured and inspected each manufacturing facility at St. Catharines, Canada; Littleton, Colorado; Richmond, Canada; and Reynosa, Mexico. There were no disqualifying information or discrepancies found in any location. Based upon the investigation, staff recommends licensure of Bingo Press and Specialty Limited d/b/a Bazaar and Novelty, Video King Gaming Systems Inc., and Western Bingo Supply Inc., as a Class B manufacturer. Two representatives were present: Mary Mott and Clement Chantiam.

**Vice Chair McLaughlin**, referred to “the financing has been secured” statement and asked about the Bankruptcy Court reorganization approval. **Mr. Chantiam**, Executive Vice President of Bingo King Entertainment, responded that the bankruptcy and the financing were secured. Vice Chair McLaughlin asked for public comments. There were none.

**Commissioner Niemi** made a motion seconded by **Commissioner McLaughlin** to approve licensure of Bingo Press and Specialty Limited, d/b/a., Bazaar and Novelty as a Class B manufacturer, Video King Gaming Systems, Inc., and Western Bingo Supplies as a Class B manufacturer. *Vote taken; the motion passed with three aye votes.* Commissioner Parker was absent.

#### **John Huxley (Casino Equipment) Ltd., London, England**

**Assistant Director Fries** reported that John Huxley (Casino Equipment) Ltd. has applied for a Class B manufacturer license. The corporate headquarters and manufacturing facility are located in London, England. The applicant manufactures roulette wheels and gaming tables. He provided stock and shareholder information contained in the agenda report.

Special agents from the Financial Investigations Unit conducted personal and criminal history investigations on the corporate officers. They initiated and completed a review and analysis of both their personal and corporate financial records, other documentation, and completed an onsite inspection of the manufacturing facility in London, England. No disqualifying information was found. John Huxley (Casino Equipment) Ltd. is currently licensed by the following jurisdictions: Turtle Mountain Gaming Program, State of Connecticut, Pueblo of Acoma Gaming Commission, Shakopee Mdewakanton Sioux Community Gaming Commission, Mississippi Gaming Commission, Pueblo of Isleta Gaming Commission, New Jersey Casino Control Commission, Nevada State Gaming Control Board, and Saginaw Chippewa Indian Tribe of Michigan Gaming Commission. Based on the investigation, staff recommends licensure of John C. Huxley (Casino Equipment) Ltd. as a Class B distributor and as a Class B manufacturer. There were no representatives present.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve licensure of John Huxley (Casino Equipment) Ltd. as a Class B distributor and a Class B manufacturer. *Vote taken; the motion passed with three aye votes.* Commissioner Parker was absent.

#### **Western Money Systems, Sparks, NV**

**Assistant Director Fries** reported that Western Money Systems, Inc. applied for a Class "C" Manufacturer License. Corporate headquarters is located in Sparks, Nevada, and the manufacturing facility is located in Las Vegas. The corporation develops, manufactures, and distributes currency-handling equipment. Mr. Fries provided stock and shareholder information as contained in the agenda packet.

Special Agents from the Financial Investigations Unit conducted a personal and criminal history investigations on the corporate officers. They initiated and completed a review and analysis of their personal and corporate financial records, other documents, and completed an onsite inspection of the manufacturing facility in Las Vegas. No disqualifying

information was found. Western Money Systems is currently licensed in Arizona, Mississippi, Colorado, Nevada, Louisiana, and with tribal gaming agencies in the United States. Based upon the review of the application, financial documents, and criminal background information, the applicant qualifies for manufacturer and distributor licenses in Washington State. Based on the investigation, staff recommends approval of a license for Western Money Systems as a Class C Manufacturer and Class B Distributor. Mr. and Mrs. Boyle were present for questions and introduced themselves.

**Vice Chair McLaughlin** asked if this is going to save establishments the cost of putting people to work. Mr. Boyle said it would because the principal product they would bring into the state is a machine that could refund the tickets that are issued by a slot machine. They communicate with the slot machine system and a customer could use the machine to be paid. However, Mr. Boyle said that in most cases the employees are usually retained to provide other customer service. There were no other public comments.

**Commissioner Ludwig** made a motion seconded by **Commissioner Parker** to approve licensure of Western Bingo Supply as a Class C Manufacturer and Class B Distributor. *Vote taken; the motion passed with four aye votes.*

**Vice Chair McLaughlin** called for a recess at 3:05 p.m., and reconvened the meeting at 3:15.

#### **4. House-Banked Public Card Room Reviews:**

##### **Bowlaway Restaurant and Casino, Walla Walla (Walla Walla Gaming Inc.)**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate up to ten tables of house-banked card games. The applicant was formed as a privately held Washington corporation in March 2002. The corporate headquarters is located in East Wenatchee. He highlighted the ownership and shareholder information as provided in the agenda packet. Special agents from the Financial Investigations Unit conducted a criminal and personal background investigation on all substantial interest holders and initiated and completed a financial investigation of both the company and personal stockholder finances. No disqualifying information was found. Special Agents from the Field Operations Division conducted and completed an onsite pre-operational review (PORE) in accordance with the rules of the Commission. The applicant was found to be in compliance with the rules of the Commission. Based upon the licensing investigation and the PORE, staff recommends Walla Walla Gaming Inc., d/b/a/ Bowlaway Restaurant and Casino, be licensed as a house-banked public card room and be authorized to operate up to ten tables at \$25 limits. Max Faulkner was present for questions.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve licensure of Walla Walla Gaming, Inc., d/b/a Bowlaway Restaurant and Casino, as a house-banked card room authorized to operate up to ten tables with a maximum betting limit of \$25. *Vote taken; the motion passed with four aye votes.*

##### **Pete's Inc., Yakima**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate four tables of house-banked card games. The applicant was incorporated as a privately held corporation in October 1999. The corporate headquarters are located in Yakima. The applicant has no other licenses at this time. Special agents from the Financial Investigations Unit of the WSGC conducted a criminal and personal background on all substantial interest holders and initiated and completed a financial investigation on both company and personal stockholder finances. No disqualifying information was found. Special agents from the Field Operations Division conducted and completed a PORE in accordance with the rules of the Commission. The applicant was found to be in compliance. Based on the results of the licensing investigation and the PORE, staff recommends Pete's Inc., d/b/a Pete's, be licensed as a house-banked card room authorized to operate up to four tables with a maximum betting limit of \$25. Pete Blue was present.

**Vice Chair McLaughlin** called for public comments. There was some discussion pertaining to the number and locations of Indian casinos located in the Yakima area.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve licensure of Pete's Inc., d/b/a Pete's, as a house-banked card room authorized to operate up to four tables with a maximum betting limit of \$25. *Vote taken; the motion passed with four aye votes.*

**Freddies Associates, LLC, d/b/a/ Freddies Club, Auburn**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate up to 15 tables of house-banked card games. This is a change in ownership of a currently operating house-banked card room location. The applicant formed a limited liability company (LLC) in Washington in July 2002. Their headquarters is located in Tacoma. He identified the corporate officers and shareholders. The organization has no other licenses at this time. Special agents from the Financial Investigations Unit conducted a criminal and personal background investigation of all substantial interest holders and initiated and completed a financial investigation of both the LLC and personal membership finances. No disqualifying information was found. Special agents also completed a PORE in accordance with the rules of the Commission, and the applicant was found to be in compliance. Based upon the licensing investigation and the PORE, staff recommends Freddies Associates, LLC, d/b/a Freddies Club, Auburn, be licensed as a house-banked public card room and be authorized to operate up to 15 tables at \$100 limits. Kris Kealy and Frank Miller were present to answer questions.

**Vice Chair McLaughlin** asked if any of the people in this LLC were part of the original Freddie's. Mr. Miller responded that it is a new ownership group that Mr. Kealy pulled together. He has been involved in the management and has been assisting for some time. The remainder of the members of the LLC are all new owners and new investors. **Commissioner Parker** asked how they could call themselves Freddies Club since there is this other corporation with the same name. **Mr. Miller** responded that they represent the gaming side and the gaming application, and Mr. Kealy's group (Freddie's Associates) applied to buy the asset purchase. Negotiations are underway (regarding the name) between Mr. Steiner's estate and GSG, the other group that owns Freddies Club of Renton. They have been put on notice, by the group, to not use the name and his client is still negotiating that issue. Because this is a civil matter they don't believe it should be an issue for the Commission. If the Commission grants approval today, it is anticipated that within a period of time the sale will be closed and they hope the name issue will be resolved. **Vice Chair McLaughlin** called for public comment.

**Bob Tull**, Attorney representing GSG Corporation, noted that GSG is the company in which Fred Steiner was the majority shareholder. It was involved with the ownership of Freddies Club-Renton and Diamond Lil's. Mr. Steiner personally started Freddies Club of Auburn and he had some involvements in Freddies Club of Fife although it didn't open until after he died, and he had an interest in Freddies Club of Everett. The estate situation has been a "lawyerrific" situation and has been a protracted process. He asked the Commission to approve the license application before the Commission. The civil issues are in a series of steps that need to be taken care of, and GSG has no objection to the issuance of the license. Mr. Tull believed the closing of some of the gaps in the agreements is likely within the coming days and weeks. As they close up, there will be an appropriate method for operating as Freddies Club in Auburn for a shorter or longer time, or there won't be, and if appropriate there will be a different name processed. From a licensing standpoint GSG agrees there is no difficulty.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve licensure of Freddies Associates LLC, d/b/a Freddies Club, as a house-banked card room, authorized to operate up to 15 tables with a maximum betting limit of \$100. *Vote taken; the motion passed with four aye votes.*

**Pair O'Dice Investments, LLC, d/b/a Big Al's Casino, Everett**

**Derry Fries**, Assistant Director, reported this organization has applied for a license to operate 15 tables of house-banked card games. This is a purchase of a currently operating house-banked card room location. The applicant was formed as a limited liability company in December 2001. Mr. Fries identified the stockholder interests and noted there were no other licenses at this time. However, some of the substantial interest holders have an interest in Freddies Club of Everett, a licensed and operating house-banked casino, and Grand Central Casino in Lakewood, which has a pending application for a card room license.

Special agents from the Financial Investigations Unit conducted a criminal and personal background and financial investigation on all substantial interest holders, and initiated and completed a financial investigation of both the LLC and personal membership finances. No disqualifying information was found. Special agents completed a PORE in accordance with the rules of the Commission and the applicant was found to be in compliance. Based on the results of the licensing investigation and the PORE, the staff recommends Pair O'Dice Investments, LLC, d/b/a Big Al's Casino, Everett, be licensed as a house-banked card room authorized to operate up to 15 tables with a maximum betting limit of

\$100. **John Bertees** and **Dave Fritz** were present for questions and introduced themselves. **Vice Chair McLaughlin** called for public comments. There were none.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve licensure of Pair O'Dice Investments, LLC, d/b/a Big Al's Casino, located in Everett as a house-banked card room, authorized to operate up to 15 tables with a maximum betting limit of \$100. *Vote taken; the motion passed with four aye votes.*

#### **House-Banked Public Card Room Statistical Report**

**Derry Fries**, Assistant Director, reported there are now 78 licensed house-banked card rooms currently operating; three are licensed, but not operating at this time. There are 10 pending applications.

#### **5. Group IV Qualification Review:**

##### **Boys and Girls Clubs of South Puget Sound, Tacoma**

**Special Agent Michelle Mack** provided an evaluation for year ending December 31, 2001. She reported this organization was formed in 1940 to inspire and enable all young people, especially those from disadvantaged circumstances. They provide youth programs and services in the areas of health, career development, the arts, life skills and fitness. The staff analysis of the financial statements, narrative, and supplemental information indicated the organization made significant progress towards accomplishing their stated purpose. Boys and Girls Clubs of Puget Sound is qualified as a bona fide charitable nonprofit organization conducting authorized gambling activities in the state of Washington. Staff recommends Boys and Girls Clubs of Puget Sound be certified to conduct gambling activities in the state of Washington as a nonprofit organization.

She introduced Julia Puckett, the organization's director of finance. **Ms. Puckett** provided a presentation highlighting the services provided by the Boys and Girls Clubs of Puget Sound. **Commissioner Niemi** noticed a financial difference between 2000 and 2001 in the Bingo and pull-tab activity. She asked if Ms. Puckett was concerned about the difference in the gross and net income from both those years. Ms. Puckett affirmed and reported that two things happened: the Bingo Palace located in Fife closed in June and some of the business started to come to them, and they opened a moonlight session on Fridays. This significantly increased their bottom line. Ultimately, they ended the year with cash transferred to the organization of well over \$300,000. They are looking forward to a good year next year.

**Commissioner Parker** complimented Ms. Puckett on her presentation, and asked Ms. Puckett to identify the amount of dollars that they were able to contribute toward their causes from the Bingo and pull-tab receipts, and to break that out in terms of where they distributed the funds. **Ms. Puckett** responded that all the money goes to staff salaries. She believed staff was the most important component in the abuse program, noting that one could open a club and apply the best technology, but if staff wasn't available that really care about kids, nothing good would result. Ms. Puckett said their organization is proud of their excellent staff retention; some employees have been with the organization for 20 years.

**Vice Chair McLaughlin** asked about the grant monies they received. Ms. Puckett said they used one grant for a multi-media theatre system and a second grant for an editing system; each grant was approximately \$30,000. They bought the equipment and they were reimbursed \$60,000 for the equipment at the Eastside Branch. Commissioner McLaughlin asked what they paid the national organization in dues. Ms. Puckett replied that it was a percentage of their budget. Last year they paid approximately \$7,000 to \$8,000 on a \$3 million budget. In return, they receive advertising for their programs.

**Commissioner Niemi** addressed the December 31, 2001, financial report showing wage expenses and net gambling income. **Ms. Puckett** affirmed their salaries were over \$1 million for seven units and four outreach sites at three schools. Commissioner Niemi questioned the meaning of the budget figures. A lengthy discussion ensued, which concluded with a clarification that the Bingo and pull-tab revenue was combined on the report, and that they transferred \$255,000 to the Boys and Girls Operating Fund, which was almost 10 percent. **Vice Chair McLaughlin** called for further public comment. There was none.

**Commissioner Parker** made a motion seconded by **Commissioner Ludwig** to certify Boys and Girls Clubs of Pierce County to conduct gambling activities in the state of Washington as a nonprofit organization. *Vote taken; the motion passed with four aye votes.*

**6. Phase II Reviews:**

**Royals Casino East, East Wenatchee**

Jeannette Sugi, Special Agent, reported that Royals Casino East is a commercial restaurant, lounge, and card room. East Wenatchee Development owns Royals Casino East, LLC, which is owned by Royal Operations Parent, LLC, owned by Royal Parent, LLC. Royal Parent, LLC, is owned by three organizations: Royal Casino Inc., Carlos O'Brien, and Royal Mountain Associates LLC. The casino began conducting house-banked activities in June of 2002, and they are currently operating 15 tables, including seven Blackjack, one Double-deck Blackjack, one Three-Card Poker, two Spanish 21, two Max the Dealer, and one Fortune Pai Gow. The Phase II team conducted an investigation which included the review and observation of the operating procedures for the four key operating departments, and the team compared the licensee's actual operating procedures to those documented in the card room rules. The licensee's written internal controls were also compared to the card room rules to ensure compliance and consistency. All violations that were noted during the review were verified as being corrected during follow-up inspections. The city of East Wenatchee was contacted to confirm the licensee is current on all their local card room taxes, and the East Wenatchee Police Department was contacted to verify there had been no adverse impacts of the card room on the community. Based on the review, staff recommends that Royals Casino East be approved to operate at Phase II wagering limits. Agent Sugi introduced Bob Brennan, Managing Partner.

**Commissioner Ludwig** asked Mr. Brennan when he started operating at \$25 levels. Mr. Brennan responded, June 21, 2002. **Commissioner McLaughlin** asked how were things going. Mr. Brennan responded that they are fine now that they have the temporary \$100 limit increase. Mr. Brennan thanked Special Agent Roger Bean for an outstanding job, and the staff in Lacey for getting them through the process. **Vice Chair McLaughlin** called for public comments and there were none.

**Commissioner Ludwig** made a motion seconded by **Commissioner Parker** to approve the Royals Casino East in East Wenatchee to operate at Phase II wagering limits. *Vote taken; the motion passed with four aye votes.*

**Golden Nugget Casino, Tukwila**

**Special Agent Sugi**, reported that the Golden Nugget Casino is a commercial restaurant, lounge, and card room located in Tukwila, owned by Vormsberg Company, Inc., of which Tim Iszley owns 90 percent and Michaels Development owns 10 percent of the stock. They began conducting house-banked activities in June of 2002. They are currently operating 10 tables, which includes two Blackjack, two Lucky Lady, two Fortune Pai Gow, one Caribbean Stud, one Three-Card Poker, and two Spanish 21. The Phase II team conducted an investigation which includes a review and observation of the four key operating departments. The team compared the licensee's actually operating procedures to those documented in the card room rules, and the licensee's written internal controls were compared to the card room rules to ensure compliance and consistency. No material violations were noted during the review. The city of Tukwila affirmed all taxes were paid; the Tukwila Police Department affirmed there had been no adverse impacts on the community. Based on the review, staff recommends the Golden Nugget Casino be approved to operate at Phase II wagering limits. **Mr. Iszley** introduced himself.

**Commissioner Ludwig** congratulated Mr. Iszley on a second Phase II review with no violations. **Vice Chair McLaughlin** called for public comments, and there were none.

**Commissioner Ludwig** made a motion seconded by **Commissioner Niemi** to approve the Golden Nugget Casino in Tukwila to operate at Phase II wagering limits. *Vote taken; the motion passed with four aye votes.*

**7. Other Business/General Discussion/Comments from the Public:**

**Vice Chair McLaughlin** called for public comments. **Director Day** commented on one statistic that might be of interest, noting the net income available from the various charities and nonprofits across the state from Boys & Girls Club totaled \$17.3 million last year; \$8 million from Bingo, \$6.4 million from pull-tabs, and \$2.9 million from Raffles.

**Executive Session To Discuss Pending Investigations, Tribal Negotiations, and Litigation:**

At 4:10 p.m., **Vice Chair McLaughlin** called an Executive Session, and recalled the meeting at 4:45 p.m., to adjourn.

**COMMISSION MEETING  
FRIDAY, JANUARY 10, 2003  
MINUTES**

**Chair Orr** called the meeting to order at 9:30 a.m., at the WestCoast Hotel in Olympia, and welcomed the attendees.

**MEMBERS PRESENT:**                      **COMMISSIONER LIZ MCLAUGHLIN, Vice Chair;**  
   **COMMISSIONER CURTIS LUDWIG;**  
   **COMMISSIONER JANICE NIEMI;**  
   **COMMISSIONER ALAN PARKER;**  
   **SENATOR SHIRLEY WINSLEY;**  
   **REPRESENTATIVE ALEX WOOD;**  
   **REPRESENTATIVE CHERYL PFLUG**

**OTHERS PRESENT:**                      **RICK DAY, Executive Director;**  
   **ED FLEISHER, Special Assistant, Policy & Government Affairs;**  
   **DERRY FRIES, Assistant Director, Licensing Operations;**  
   **CALLY CASS-HEALY, Assistant Director, Field Operations;**  
   **AMY PATJENS, Administrator, Communications & Legal;**  
   **MR. ACKERMAN ACKERMAN, Assistant Attorney General;**  
   **GAIL GRATE, Administrative Assistant**  
   **SHIRLEY CORBETT, Executive Assistant;**

**Vice Chair McLaughlin** announced that the first order of business for the Commission would be to consider correspondence to Governor Locke. She explained the Commission would be reviewing three drafts of a letter to the Governor, the original of which was discussed at Thursday's meeting, with a conclusion that staff should work on a redraft of the proposed letter.

**Vice Chair McLaughlin** noted there was a change on Item 4 of the first version of the letter that was deleted from the second version. She also noted that she preferred the second version of the letter because she did not like strict opposition to something that they haven't yet seen. **Commissioner Parker** agreed, and said yesterday's discussion was helpful to clarify that the Commission didn't have a proposal, as such, on the table and until they do, it would be premature to take a position. However, he thought some communications in an effort to convey the concerns of the Commission would help the staff and management of the Commission represent the concerns as legislation develops. Commissioner Parker believed it was important to have something that identified the basis of the Commission's concern, which he believed is what version two of the letter accomplishes.

**Director Day** addressed version two, and the concerns expressed in the first paragraph. He pointed out that the major change is the addition of Item 1, which is a statement the Commission discussed yesterday—the potentiality to expose the regulatory process to political influence. The other major change is the elimination of Item 4 relating to budget issues. In essence, the Commission might want to focus strictly to the issue of the Commission, and the philosophy behind the Commission. Director Day addressed the last paragraph and noted the addition, "that was created in response to the corruption and tolerance policies of the '50s and '60s." Director Day affirmed the desire to make this letter an early expression of concern, bringing out the major points, and recognizing that there are possibly three different issues: 1) the existence of the Commission; 2) the finances/budget considerations and impacts, and 3) the consolidation of the Horse Racing and Gambling Commission; and at this point, to take a position on the issue of the existence of the Commission.

**Vice Chair McLaughlin** addressed the language regarding potentially exposing the regulatory process to political influence, and didn't feel this should be the first item on the list. **Commissioner Parker** had no strong feelings because he believed it was a valid point easily incorporated into paragraph #2, or elsewhere. Commissioner McLaughlin suggested it be incorporated in paragraph #2. **Commissioner Ludwig** said he didn't have strong feelings whether it was rearranged or left where it is because he agreed it was a strong point. Commissioner McLaughlin agreed it was a strong point, however, she expressed concern regarding how the Governor might react to a letter saying that if he changes the Commission, it may have the potential to be exposed to political influences. She wasn't convinced that was the right thing to do at the beginning of the letter. Commissioner Ludwig said he would agree with whatever they decided to do. Commissioner McLaughlin indicated that she would vote to authorize the Chair to send this letter if, and when, there is a bill submitted identifying the possibility of dismantling the Commission. She acknowledged the point of view and validity for informing the Legislature of what such actions might mean, even before they write the bill. **Commissioner Parker** advised that editing by committee was difficult, and suggested a reorder of the items to accommodate the concerns expressed. Regarding the comment about perhaps holding off on sending the letter, he personally believed it would be helpful for staff to have a statement from the Commission at this point. Commissioner Niemi agreed with Commissioner Parker.

**Commissioner Ludwig** supported Commissioner Parker's rearrangement; however, he suggested that the language "and keeping the regulatory process out of the political arena" be used. Commissioner Parker agreed that was better wording. **Representative Pflug** supported eliminating the word "potentially" because then it wouldn't infer that there would be undue political influence. She questioned how important that point was, and how much the Commission wanted to emphasize it. She noted that yesterday's version expressed concerns about a method to get at some funds that were dedicated for another purpose. Commissioner McLaughlin responded that the funding issue was removed because there wasn't a bill to specifically address this topic appropriately.

**Vice Chair McLaughlin** initiated discussion on whether or not there should be a Commission, and why the Commission was created, versus a Department of Gaming being created. **Representative Pflug** asked if the Commission became a department instead of a Commission, would there be a concern that the funds might get co-mingled into the state budget as opposed to being separate. Commissioner McLaughlin said that depended upon what the bill would say, and she suggested that perhaps that issue might be handled in another letter.

**Commissioner Niemi** made a motion seconded by **Commissioner Parker** to accept the second version of the correspondence incorporating the comments about re-ordering paragraphs, and any necessary grammatical changes. *Vote taken; the motion carried unanimously.*

**Representative Pflug** appreciated the Commissioners taking the time to reconsider the correspondence. She thought the attention to wording was good, and the conservative approach up front was very reasonable. She also thought that the Department of Gaming sounded much more like a revenue-generating agency than a regulatory commission. She acknowledged there were valid reasons for concerns. (Commissioner Parker left the meeting.)

#### **8. Minutes: Regular Meeting, November 14 and 15, 2002 – Tukwila.**

**Minutes: Special Meeting, December 12, 2002 - Olympia:**

**Mr. Ackerman** reminded the commissioners that when they considered approving the minutes of the Special Meeting, only the commissioners who attended that meeting could vote to approve.

**Commissioner Niemi** made a motion seconded by **Commissioner Ludwig** to approve the Regular Meeting Minutes of November 14 and 15, 2002, as presented. *Vote taken; the motion passed with three votes.*

**Commissioner Ludwig** made a motion seconded by **Commissioner McLaughlin** to approve the Special Meeting Minutes of December 12, 2002, as presented. *Vote taken; the motion passed with two votes.*

#### **9. Motion to Set Aside Judgment**

**Seattle Skating Club, Mountlake Terrace**

**Dave Bever, Attorney and Kim Clark – Business Manager**, appearing on behalf of the Seattle Skating Club, and

**Michael Lufkin, Assistant Attorney General** appearing on behalf of Commission Staff, presented their testimony. A

WSGC Meeting, Olympia

Minutes

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transcript of the hearing is available upon request. The meeting was recessed at 10:25 a.m., in order for the Commissioners to conduct an executive session to deliberate the case. The open public meeting was called to order at 10:40 a.m.

Commissioner Ludwig stated that based on the record before the Commission, and the previous hearing, and the misrepresentations, he offered a motion to vacate the previous order and set this matter for a new hearing at the February 2003 commission meeting. Vice Chair McLaughlin seconded the motion. Commissioner Ludwig also suggested that the licensee submit to staff by the end of the month, the particular plan to come into compliance. Vice Chair Commissioner McLaughlin concurred. *Vote taken; the motion passed unanimously.*

**Commissioner Niemi** stated the motion to vacate is granted. She further stated the Commission believes mistakes and newly discovered evidence shows their final judgments were based on the inadvertent and/or misinformation and therefore the Commission would continue this matter to February 13. She further directed that if there is still a request for a variance, she recommended that the petitioner should notify staff by January 20.

#### **10. Petition for Reconsideration**

##### **YWCA, Yakima**

**Kevan Montoya, Attorney at Law** (via conference call) and **Melinda Barrett** appeared on behalf of the YWCA. **Michael Lufkin, Assistant Attorney General**, represented Commission staff. A transcript of the proceeding is available upon request. The meeting was recessed at 11:30 a.m., in order for the Commissioners to conduct an executive session to deliberate the case. The open public meeting was recalled at 11:55 a.m.

Commissioner Ludwig commented that based on the fact that the Commission heard more detail about a plan than before, and had some specifics at least by way of spreadsheets presented this time, he made a motion to continue the hearing on the Motion to Reconsider until next month, and, in the interim, the licensee was directed to present to the Attorney General's Office and staff, a comprehensive narrative plan to come into compliance so they could analyze and respond to it by the end of January. Commissioner Ludwig clarified that by "narrative plan" he did not mean a spreadsheet with facts and figures, that the motion meant the organization should tell the Commission what they are going to do to come into compliance, because presently, that seemed to be rather elusive. Vice Chair Commissioner McLaughlin seconded the motion. **Commissioner Niemi** opposed the motion because she believed "the buck stops here" and because the Commission considered it thoroughly and should not reconsider it again. *Vote taken; the motion passed 2-1 with Commissioner Niemi voting nay.*

**Mr. Ackerman** affirmed the Petition for Reconsideration for the YWCA has been continued until the February 13-14, 2003, Commission meeting in Olympia. He clarified the Commission would be entertaining whatever additional information the parties choose to present.

#### **11. Petition for Review**

##### **Sparky's Bar & Grill, Shoreline**

**Mazen Khdeer, Petitioner**, and **Neil Gorrell, Assistant Attorney General**, representing staff, presented their cases. A transcript of the proceedings is available upon request. The open public meeting was recessed for an Executive Session at 12:30 p.m., in order for the Commissioners to deliberate the case, and the open public meeting was recalled at 12:36 p.m.

Commissioner Ludwig commented that based on today's hearing, he didn't find any basis to find that there was an error on the part of the Administrative Law Judge, and made a motion to affirm, adopt his Findings, Conclusions, and affirm his Order. Commissioner McLaughlin seconded the motion. *Vote taken; the motion passed unanimously.*

**Commissioner Niemi** restated that the Findings and Conclusions of Law by the Administrative Law Judge are hereby adopted and Assistant Attorney Gorrell was directed to prepare an order.

**Vice Chair Commissioner McLaughlin** announced that Commissioner Niemi had to leave the meeting due to a conflict. She apologized to the audience and noted the presentation on the Electronic Gambling Lab and the rules packages would be continued until February.



12. **Petition for Variance** - Held over to the February 2003 meeting.  
**Sno-King Amateur Hockey Association, Kirkland**

14. **Staff Presentation – Electronic Gambling Lab** - Held over to the February 2003 meeting.

#### **RULES UP FOR FINAL ACTION**

14. **Vote to Re-Adopt WAC 230-08-017** - Held over to the February 2003 meeting.

15. **Digital Surveillance for Card Rooms:** - Held over to the February 2003 meeting.  
*WAC 230-40-625, WAC 230-40-825, WAC 230-40-550, WAC 230-40-815, WAC 230-40-860, WAC 230-40-875  
WAC 230-40-895.*

16. **Petition for Rule Change Submitted by Bingo Magic – Electronic Dauber Software:**  
*WAC 230-02-250 Kevin Sherwood withdrew the Petition for a rule change.*

17. **Other Business/General Discussion/Comments from the Public:**  
**Vice Chair McLaughlin** called for public comments. There were no further comments. With no further business, Vice Chair McLaughlin adjourned the meeting at 12:35 a.m. The next meeting is scheduled for February 13 and 14, 2003, in Olympia.

Minutes submitted by:

Shirley Corbett  
Executive Assistant